

EXPLANATORY MEMORANDUM TO THE EDUCATION (PUPIL REFERRAL UNITS) (APPLICATION OF ENACTMENTS) (ENGLAND) REGULATIONS 2005

2005 No. 2039

- 1.** This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Description**

2.1 This instrument provides for certain provisions in primary and subordinate legislation relating to schools maintained by local education authorities (LEAs) to apply, with or without modification, or not to apply, to Pupil Referral Units (PRUs). It revokes and replaces the Education (Pupil Referral Units) (Application of Enactments) Regulations 1994 and the Education (Pupil Referral Units) (Application of Enactments) (Amendment) Regulations 1996 in relation to England.

- 3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 Currently, PRUs are subject to regular inspections under Section 10 of the School Inspections Act 1996 (SIA), which applies to PRUs by virtue of the Education (Pupil Referral Units) (Application of Enactments) Regulations 1994 as amended by Part II of the Education (School Inspection) Regulations 1997. Both the SIA and the supporting regulations are to be repealed. On the 1 September, new arrangements for school inspections are due to commence under Part 1 of the Education Act 2005 and the Education (School Inspection) (England) Regulations 2005. These will apply to PRUs by virtue of paragraphs 11 and 15 of Schedule 1 to this instrument.

- 4. Legislative Background**

4.1 Section 19 of the Education Act 1996 requires LEAs to make arrangements for the provision of suitable education, at school or otherwise, for children of compulsory school age who would not otherwise receive suitable education for any period because of, for example, illness or exclusion. A school established and maintained by a LEA which is specially organised to provide education for such children is known as a PRU.

4.2 Schedule 1 to the 1996 Act makes further provision in relation to PRUs, and in particular paragraph 3 provides for Regulations to be made to modify the application of enactments relating to schools maintained by LEAs, in relation to PRUs. The Education (Pupil Referral Units) (Application of Enactments) Regulations 1994 require amendment to take account of changes in the legislation applying to schools maintained by LEAs since they were made. In addition, those Regulations have been amended four times. The new Regulations therefore both update and consolidate the previous instruments.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 No statement is required.

7. Policy background

7.1 LEAs have, since 1994, been under an obligation to provide education for children who are out of school for any reason, including exclusion or sickness. The Education Act 1993 first gave legal recognition to a type of school known as a PRU, specially organised to provide education for children out of school.

7.2 Because of the nature of PRUs and the fact that, in most instances, pupils remain in them for a limited period prior to reintegration back into mainstream education, it would not be appropriate for the entirety of legislation relating to schools maintained by LEAs to apply to them. These Regulations therefore modify the application of that legislation in relation to PRUs to reflect their particular circumstances. For example, modifications are made in relation to curriculum requirements, management and inspection arrangements, and data collection requirements.

7.3 New school inspection arrangements are due to commence on 1 September. Inspections will be shorter, sharper and more frequent. They will be conducted at short notice or in exceptional circumstances with no notice. In February 2004, Ofsted conducted a major public consultation on the future of inspection for schools. A total of 1,377 responses from teachers, governors, parents, pupils, local education authorities and others were received. The results showed that average support for each consultation question was 77% and average opposition was 9%. [Full results available here [A New Relationship with Schools](#)]

7.4 By the end of the summer term 2005, Ofsted will have conducted over 200 trial inspections of schools (including a PRU) to test out the new framework and inspection arrangements. Evidence from the trials (March 2005) shows that 98% of headteachers are satisfied that the inspection will help the school to move forward.

7.5 The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 are replacing and updating the 1994 and 1996 (amendment) regulations. They do not introduce new requirements on LEAs; the amendments are not controversial; and they include the flexibilities needed by LEAs to effectively manage the particular circumstances of PRUs. We therefore decided that formal consultation was not necessary. However, we will notify local authorities about the new regulations, highlighting the changes.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Maleck Boodoo at the Department for Education and Skills Tel: 020-7925-5475 or e-mail: Maleck.boodoo@dfes.gsi.gov.uk can answer any queries regarding the instrument.